

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1346  
Judiciary

(Delegate Clippinger)

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**Landlord and Tenant - Eviction Proceedings - Catastrophic Health Emergencies**

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This emergency bill prohibits the court, during a catastrophic health emergency only and under specified circumstances, from (1) entering a judgment for possession or repossession of residential, commercial, or industrial real property or (2) issuing a warrant of restitution of possession or repossession of such property. These prohibitions apply if the tenant can demonstrate to the court, through documentation or other objectively verifiable means, that the tenant suffered a “substantial loss of income.” The prohibitions are applicable to failure to pay rent and breach of lease actions. The bill also establishes that a substantial loss of income is an affirmative defense to a complaint against a tenant of residential, commercial, or industrial real property for failure to pay rent. Otherwise, the bill specifies that statutory provisions regarding failure to pay rent and breach of lease actions remain in full force and effect during a declared catastrophic health emergency.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State government operations or finances.

**Local Effect:** The bill is not anticipated to materially affect local government operations or finances.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** In regards to an *individual*, “substantial loss of income” means a substantial loss of income resulting from a catastrophic health emergency proclamation, including such loss due to (1) job loss; (2) reduction in compensated hours of work; (3) closure of place of employment; or (4) the need to miss work to care for a home-bound, school-age child. In regards to an *entity*, “substantial loss of income” means a substantial loss of income resulting from a catastrophic health emergency proclamation, including such loss due to lost or reduced business, required closure, or temporary or permanent loss of employees.

The bill incorporates the definition of “catastrophic health emergency” contained in § 14-3A-01 of the Public Safety Article. Under that section, a “catastrophic health emergency” is a situation in which extensive loss of life or serious disability is threatened imminently because of exposure to a deadly agent.

**Current Law:** In general, a landlord seeking to evict a tenant initiates the process by filing the appropriate action (*e.g.*, failure to pay rent, breach of lease, *etc.*) in the District Court. If awarded a judgment by the court, the landlord files a warrant of restitution which, once reviewed and signed by the court, authorizes an eviction. The warrants of restitution are forwarded to the local sheriff’s office, who is then authorized to carry out the evictions. Statute sets forth numerous specific requirements for such actions, including those related to written notice prior to filing certain actions.

In failure to pay rent actions, if judgment is in favor of the landlord and the tenant does not return the premises to the landlord or otherwise satisfy the judgment by paying the applicable rent and late fees within 4 days, as specified, the court must, at any time after 4 days have elapsed, issue a warrant of restitution. The court may, upon presentation of a certificate signed by a physician certifying that surrendering the property within the 4-day period would endanger the health or life of the tenant or other occupant, extend the time for surrender of the premises as justice may require, up to 15 days. Statutory provisions also authorize stays of execution in other specified circumstances, such as in the event of extreme weather conditions.

**Small Business Effect:** Small business landlords may be adversely affected due to the specified restrictions on judicial action during a period of a catastrophic health emergency; small business tenants are afforded additional protections. However, in regards to the current catastrophic health emergency, the bill generally codifies provisions that are already in effect pursuant to an executive order.

**Additional Comments:** On March 5, 2020, Governor Lawrence J. Hogan, Jr., declared a state of emergency and catastrophic health emergency in an effort to control and prevent

the spread of COVID-19. The state of emergency was most recently renewed on February 19, 2021.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2021  
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